

AMENDED IN ASSEMBLY JUNE 30, 2010

AMENDED IN ASSEMBLY JUNE 10, 2010

AMENDED IN SENATE APRIL 6, 2010

SENATE BILL

No. 1467

Introduced by Senator Padilla

February 19, 2010

An act to amend Sections 25217.5 and 25310 of, and to repeal the heading of Chapter 6.5 (commencing with Section 25550) of Division 15 of, the Public Resources Code, and to amend Sections 365.1, 394.27, 394.4, 394.7, 395.5, 454.1, 454.6, 1822, 2791, 2792, 2793, 2794, 2795, 2796, 2797, 2798, 2799, 2841, 2842, 2842.4, 2889.4, 2889.5, 2894, 5142, 7000, 8341, 8366, and 9607 of, to amend and renumber Sections 380, 381.2, 385.2, 454.5, 454.55, 454.56, and 635 of, to add Section 326 to, to add a heading as Chapter 5 (commencing with Section 8380) to Division 4.1 of, and to repeal Sections 389, 709.7, and 1701.6 of, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1467, as amended, Padilla. Public Utilities Commission: reporting: wharfingers.

(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined.

This bill would correct certain existing references in the Public Utilities Code by revising "electric corporation" to "electrical corporation."

(2) Under existing law, the PUC may establish its own procedures, subject to statutory limitations or directions and constitutional

requirements of due process. Existing law requires the commission to develop, publish, and annually update an annual work plan access guide that describes the scheduled ratemaking proceedings and other decisions that may be considered by the PUC during the calendar year, as prescribed. Existing law requires the president of the PUC to annually appear before the appropriate policy committees of the Senate and Assembly to report on the annual work plan access guide and to report on the annual report of the PUC on the number of cases where resolution exceeded the time periods prescribed in scoping memos and the days that commissioners presided in hearings.

This bill would revise and recast these provisions to instead require the president of the PUC to annually appear before these committees to report on the activities of the PUC, including the work plan access guide and the annual case resolution report. The bill would additionally require the Chair of the State Energy Resources Conservation and Development Commission to appear annually before these committees to report on the activities of that commission.

(3) The California High Speed Internet Access Act of 1999 (the act), among other things, requires the PUC to monitor and participate in a specified proceeding of the Federal Communications Commission addressing whether to require incumbent local exchange carriers, as defined, to permit interconnection by competitive data local exchange carriers, as defined, at any technically feasible point, to permit those competitive local exchange carriers to provide high bandwidth data services over telephone lines with voice services provided by incumbent local exchange carriers.

This bill would repeal the California High Speed Internet Access Act of 1999.

(4) The Public Utility Act requires the Secretary of the California Environmental Protection Agency to evaluate and recommend to the Legislature public policy strategies that address the feasibility of shifting costs from electric utility ratepayers, in whole or in part, to other classes of beneficiaries, as prescribed, and requires the secretary to prepare and submit to the Legislature an annual report, in accordance with a prescribed schedule, on the existence, status, and progress of any public policy measures for cost-shifting developed as a result of the recommendations made pursuant to those provisions.

This bill would repeal these reporting requirements.

(5) Existing law regulating the provision of telecommunications services requires a local exchange service provider to provide prescribed

consumer protections relating to pay-per-use telephone service features and verification of changes in service providers.

This bill would revise those provisions to refer to local exchange carriers instead of local exchange service providers.

(6) Under existing law, the disclosure of any information by an interexchange telephone corporation, a local exchange telephone corporation, or a provider of commercial mobile radio service, as defined, in good faith compliance with the terms of a state or federal court warrant or order or administrative subpoena issued at the request of a law enforcement official or other federal, state, or local governmental agency for law enforcement purposes, is a complete defense against specified civil actions for the wrongful disclosure of that information.

This bill would revise that reference to a local exchange telephone corporation to, instead, refer to a local exchange carrier.

~~(7) Under existing law, household goods carriers are subject to the jurisdiction and control of the PUC under the Household Goods Carriers Act. The act authorizes a household goods carrier to enforce a lien on household goods and personal effects in accordance with specified provisions of the act and the Uniform Commercial Code-Secured Transactions.~~

~~This bill would modify how a household goods carrier can enforce its lien by substituting procedures set forth in the Uniform Commercial Code that are applicable to the enforcement of a warehouse's lien for the existing procedures that are applicable to secured transactions. The bill would authorize a household goods carrier that disposes of goods through a lien sale to deduct, after the sale, its reasonably incurred expenses related to the sale of the goods in addition to the contract maximum total dollar amount and would require the carrier to thereafter provide, without charge, an accounting of the proceeds of the sale.~~

~~(8)~~

(7) This bill would make other technical and nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25217.5 of the Public Resources Code
2 is amended to read:

1 25217.5. The chair of the commission shall do both of the
2 following:

3 (a) Direct the adviser, the executive director, and other staff in
4 the performance of their duties in conformance with the policies
5 and guidelines established by the commission.

6 (b) Annually appear before the Senate Committee on Energy,
7 Utilities and Communications and the Assembly Committee on
8 Utilities and Commerce to report on the activities of the
9 commission.

10 SEC. 2. Section 25310 of the Public Resources Code is
11 amended to read:

12 25310. On or before November 1, 2007, and by November 1
13 of every third year thereafter, the commission in consultation with
14 the Public Utilities Commission and local publicly owned electric
15 utilities, in a public process that allows input from other
16 stakeholders, shall develop a statewide estimate of all potentially
17 achievable cost-effective electricity and natural gas efficiency
18 savings and establish targets for statewide annual energy efficiency
19 savings and demand reduction for the next 10-year period. The
20 commission shall base its estimate at least in part on information
21 developed pursuant to Sections 637, 639, 715, 9615, and 9615.5
22 of the Public Utilities Code. The commission shall, for each
23 electrical corporation and each gas corporation, include in the
24 integrated energy policy report, a comparison of the public utility's
25 annual targets established pursuant to Sections 637 and 639, and
26 the public utility's actual energy efficiency savings and demand
27 reductions.

28 SEC. 3. The heading of Chapter 6.5 (commencing with Section
29 25550) of Division 15 of the Public Resources Code is repealed.

30 SEC. 4. Section 326 is added to the Public Utilities Code, to
31 read:

32 326. (a) The president of the commission shall annually appear
33 before the appropriate policy committees of the Senate and the
34 Assembly to report on the activities of the commission, including,
35 but not limited to, the matters described in subdivision (b).

36 (b) The president of the commission shall annually report on
37 the annual work plan access guide required pursuant to Section
38 321.6 and on the number of cases where resolution exceeded the
39 time periods prescribed in scoping memos and the days that

1 commissioners presided in hearings, as required pursuant to Section
2 13 of Chapter 856 of the Statutes of 1996.

3 SEC. 5. Section 389 of the Public Utilities Code is repealed.

4 SEC. 6. Section 365.1 of the Public Utilities Code is amended
5 to read:

6 365.1. (a) Except as expressly authorized by this section, and
7 subject to the limitations in subdivisions (b) and (c), the right of
8 retail end-use customers pursuant to this chapter to acquire service
9 from other providers is suspended until the Legislature, by statute,
10 lifts the suspension or otherwise authorizes direct transactions. For
11 purposes of this section, “other provider” means any person,
12 corporation, or other entity that is authorized to provide electric
13 service within the service territory of an electrical corporation
14 pursuant to this chapter, and includes an aggregator, broker, or
15 marketer, as defined in Section 331, and an electric service
16 provider, as defined in Section 218.3. “Other provider” does not
17 include a community choice aggregator, as defined in Section
18 331.1, and the limitations in this section do not apply to the sale
19 of electricity by “other providers” to a community choice
20 aggregator for resale to community choice aggregation electricity
21 consumers pursuant to Section 366.2.

22 (b) The commission shall allow individual retail nonresidential
23 end-use customers to acquire electric service from other providers
24 in each electrical corporation’s distribution service territory, up to
25 a maximum allowable total kilowatthours annual limit. The
26 maximum allowable annual limit shall be established by the
27 commission for each electrical corporation at the maximum total
28 kilowatthours supplied by all other providers to distribution
29 customers of that electrical corporation during any sequential
30 12-month period between April 1, 1998, and the effective date of
31 this section. Within six months of the effective date of this section,
32 or by July 1, 2010, whichever is sooner, the commission shall
33 adopt and implement a reopening schedule that commences
34 immediately and will phase in the allowable amount of increased
35 kilowatthours over a period of not less than three years, and not
36 more than five years, raising the allowable limit of kilowatthours
37 supplied by other providers in each electrical corporation’s
38 distribution service territory from the number of kilowatthours
39 provided by other providers as of the effective date of this section,
40 to the maximum allowable annual limit for that electrical

1 corporation's distribution service territory. The commission shall
2 review and, if appropriate, modify its currently effective rules
3 governing direct transactions, but that review shall not delay the
4 start of the phase-in schedule.

5 (c) Once the commission has authorized additional direct
6 transactions pursuant to subdivision (b), it shall do both of the
7 following:

8 (1) Ensure that other providers are subject to the same
9 requirements that are applicable to the state's three largest electrical
10 corporations under any programs or rules adopted by the
11 commission to implement the resource adequacy provisions of
12 Section 635, the renewables portfolio standard provisions of Article
13 16 (commencing with Section 399.11), and the requirements for
14 the electricity sector adopted by the State Air Resources Board
15 pursuant to the California Global Warming Solutions Act of 2006
16 (Division 25.5 (commencing with Section 38500) of the Health
17 and Safety Code). This requirement applies notwithstanding any
18 prior decision of the commission to the contrary.

19 (2) (A) Ensure that, in the event that the commission authorizes,
20 in the situation of a contract with a third party, or orders, in the
21 situation of utility-owned generation, an electrical corporation to
22 obtain generation resources that the commission determines are
23 needed to meet system or local area reliability needs for the benefit
24 of all customers in the electrical corporation's distribution service
25 territory, the net capacity costs of those generation resources are
26 allocated on a fully nonbypassable basis consistent with departing
27 load provisions as determined by the commission, to all of the
28 following:

29 (i) Bundled service customers of the electrical corporation.

30 (ii) Customers that purchase electricity through a direct
31 transaction with other providers.

32 (iii) Customers of community choice aggregators.

33 (B) The resource adequacy benefits of generation resources
34 acquired by an electrical corporation pursuant to subparagraph (A)
35 shall be allocated to all customers who pay their net capacity costs.
36 Net capacity costs shall be determined by subtracting the energy
37 and ancillary services value of the resource from the total costs
38 paid by the electrical corporation pursuant to a contract with a
39 third party or the annual revenue requirement for the resource if
40 the electrical corporation directly owns the resource. An energy

1 auction shall not be required as a condition for applying this
2 allocation, but may be allowed as a means to establish the energy
3 and ancillary services value of the resource for purposes of
4 determining the net costs of capacity to be recovered from
5 customers pursuant to this paragraph, and the allocation of the net
6 capacity costs of contracts with third parties shall be allowed for
7 the terms of those contracts.

8 (C) It is the intent of the Legislature, in enacting this paragraph,
9 to provide additional guidance to the commission with respect to
10 the implementation of subdivision (g) of Section 635, as well as
11 to ensure that the customers to whom the net costs and benefits of
12 capacity are allocated are not required to pay for the cost of
13 electricity they do not consume.

14 (d) (1) If the commission approves a centralized resource
15 adequacy mechanism pursuant to subdivisions (h) and (i) of Section
16 635, upon the implementation of the centralized resource adequacy
17 mechanism the requirements of paragraph (2) of subdivision (c)
18 shall be suspended. If the commission later orders that electrical
19 corporations cease procuring capacity through a centralized
20 resource adequacy mechanism, the requirements of paragraph (2)
21 of subdivision (c) shall again apply.

22 (2) If the use of a centralized resource adequacy mechanism is
23 authorized by the commission and has been implemented as set
24 forth in paragraph (1), the net capacity costs of generation resources
25 that the commission determines are required to meet urgent system
26 or urgent local grid reliability needs, and that the commission
27 authorizes to be procured outside of the Section 635 or Section
28 636 processes, shall be recovered according to the provisions of
29 paragraph (2) of subdivision (c).

30 (3) Nothing in this subdivision supplants the resource adequacy
31 requirements of Section 635 or the resource procurement
32 procedures established in Section 636.

33 (e) The commission may report to the Legislature on the efficacy
34 of authorizing individual retail end-use residential customers to
35 enter into direct transactions, including appropriate consumer
36 protections.

37 SEC. 7. Section 380 of the Public Utilities Code is amended
38 and renumbered to read:

1 635. (a) The commission, in consultation with the Independent
2 System Operator, shall establish resource adequacy requirements
3 for all load-serving entities.

4 (b) In establishing resource adequacy requirements, the
5 commission shall achieve all of the following objectives:

6 (1) Facilitate development of new generating capacity and
7 retention of existing generating capacity that is economic and
8 needed.

9 (2) Equitably allocate the cost of generating capacity and prevent
10 shifting of costs between customer classes.

11 (3) Minimize enforcement requirements and costs.

12 (c) Each load-serving entity shall maintain physical generating
13 capacity adequate to meet its load requirements, including, but not
14 limited to, peak demand and planning and operating reserves. The
15 generating capacity shall be deliverable to locations and at times
16 as may be necessary to provide reliable electric service.

17 (d) Each load-serving entity shall, at a minimum, meet the most
18 recent minimum planning reserve and reliability criteria approved
19 by the Board of Trustees of the Western Systems Coordinating
20 Council or the Western Electricity Coordinating Council.

21 (e) The commission shall implement and enforce the resource
22 adequacy requirements established in accordance with this section
23 in a nondiscriminatory manner. Each load-serving entity shall be
24 subject to the same requirements for resource adequacy and the
25 renewables portfolio standard program that are applicable to
26 electrical corporations pursuant to this section, or otherwise
27 required by law, or by order or decision of the commission. The
28 commission shall exercise its enforcement powers to ensure
29 compliance by all load-serving entities.

30 (f) The commission shall require sufficient information,
31 including, but not limited to, anticipated load, actual load, and
32 measures undertaken by a load-serving entity to ensure resource
33 adequacy, to be reported to enable the commission to determine
34 compliance with the resource adequacy requirements established
35 by the commission.

36 (g) An electrical corporation's costs of meeting resource
37 adequacy requirements, including, but not limited to, the costs
38 associated with system reliability and local area reliability, that
39 are determined to be reasonable by the commission, or are
40 otherwise recoverable under a procurement plan approved by the

1 commission pursuant to Section 636, shall be fully recoverable
2 from those customers on whose behalf the costs are incurred, as
3 determined by the commission, at the time the commitment to
4 incur the cost is made or thereafter, on a fully nonbypassable basis,
5 as determined by the commission. The commission shall exclude
6 any amounts authorized to be recovered pursuant to Section 366.2
7 when authorizing the amount of costs to be recovered from
8 customers of a community choice aggregator or from customers
9 that purchase electricity through a direct transaction pursuant to
10 this subdivision.

11 (h) The commission shall determine and authorize the most
12 efficient and equitable means for achieving all of the following:

13 (1) Meeting the objectives of this section.

14 (2) Ensuring that investment is made in new generating capacity.

15 (3) Ensuring that existing generating capacity that is economic
16 is retained.

17 (4) Ensuring that the cost of generating capacity is allocated
18 equitably.

19 (i) In making the determination pursuant to subdivision (h), the
20 commission may consider a centralized resource adequacy
21 mechanism among other options.

22 (j) For purposes of this section, “load-serving entity” means an
23 electrical corporation, electric service provider, or community
24 choice aggregator. “Load-serving entity” does not include any of
25 the following:

26 (1) A local publicly owned electric utility.

27 (2) The State Water Resources Development System commonly
28 known as the State Water Project.

29 (3) Customer generation located on the customer’s site or
30 providing electric service through arrangements authorized by
31 Section 218, if the customer generation, or the load it serves, meets
32 one of the following criteria:

33 (A) It takes standby service from the electrical corporation on
34 a commission-approved rate schedule that provides for adequate
35 backup planning and operating reserves for the standby customer
36 class.

37 (B) It is not physically interconnected to the electric transmission
38 or distribution grid, so that, if the customer generation fails, backup
39 electricity is not supplied from the electricity grid.

1 (C) There is physical assurance that the load served by the
2 customer generation will be curtailed concurrently and
3 commensurately with an outage of the customer generation.

4 SEC. 8. Section 381.2 of the Public Utilities Code is amended
5 and renumbered to read:

6 8380. (a) By March 1, 2010, the commission, by opening a
7 new proceeding or amending an existing proceeding, shall
8 investigate the ability of electrical corporations and gas
9 corporations to provide various energy efficiency financing options
10 to their customers for the purposes of implementing the program
11 developed pursuant to Section 25943 of the Public Resources Code.

12 (b) In the report prepared pursuant to Section 384.2, the
13 commission shall include an assessment of each electrical
14 corporation's and each gas corporation's implementation of the
15 program developed pursuant to Section 25943 of the Public
16 Resources Code.

17 SEC. 9. Section 385.2 of the Public Utilities Code is amended
18 and renumbered to read:

19 8385. (a) Upon the completion and promulgation of regulations
20 pursuant to subdivision (a) of Section 25943 of the Public
21 Resources Code, each governing body of a local publicly owned
22 electric utility, as defined in Section 224.3, shall be responsible
23 for implementing an energy efficiency program that recognizes
24 the intent of the Legislature to encourage energy savings and
25 greenhouse gas emission reductions in existing residential and
26 nonresidential buildings, while taking into consideration the effect
27 of the program on rates, reliability, and financial resources.

28 (b) In the report prepared pursuant to Section 9615, each local
29 publicly owned electric utility shall include both of the following:

30 (1) The utility's status in implementing an energy efficiency
31 program pursuant to subdivision (a) and the utility's progress
32 toward attaining the goal of the program.

33 (2) The net energy savings from energy efficiency improvements
34 installed pursuant to this section.

35 SEC. 10. Section 394.27 of the Public Utilities Code is
36 amended to read:

37 394.27. When a customer files a claim with an electrical
38 corporation for damages to property resulting from the curtailment
39 of electric service due to the failure of the electrical corporation
40 to reasonably provide service or restore service within a reasonable

1 time after a fire, flood, earthquake, other natural disaster, or act of
2 God, the electrical corporation shall inform the customer that such
3 claim may be pursued in small claims court or other judicial courts,
4 depending on the amount of the claim.

5 SEC. 11. Section 394.4 of the Public Utilities Code is amended
6 to read:

7 394.4. Rules that implement the following minimum standards
8 shall be adopted by the commission for electric service providers
9 offering electrical services to residential and small commercial
10 customers and the governing body of a public agency offering
11 electrical services to residential and small commercial customers
12 within its jurisdiction:

13 (a) Confidentiality: Customer information shall be confidential
14 unless the customer consents in writing. This shall encompass
15 confidentiality of customer specific billing, credit, or usage
16 information. This requirement shall not extend to disclosure of
17 generic information regarding the usage, load shape, or other
18 general characteristics of a group or rate classification, unless the
19 release of that information would reveal customer specific
20 information because of the size of the group, rate classification,
21 or nature of the information.

22 (b) Physical disconnects and reconnects: Only an electrical
23 corporation, or a publicly owned electric utility, that provides
24 physical delivery service to the affected customer shall have the
25 authority to physically disconnect or reconnect a customer from
26 the transmission or distribution grid. Physical disconnection by
27 electrical corporations subject to the commission's jurisdiction
28 shall occur only in accordance with protocols established by the
29 commission. Physical disconnection by publicly owned electric
30 utilities shall occur only in accordance with protocols established
31 by the governing board of the local publicly owned electric utility.

32 (c) Change in providers: Upon adequate notice supplied by a
33 electric service provider to the electrical corporation or local
34 publicly owned electric utility providing physical delivery service,
35 customers who are eligible for direct access may change their
36 energy supplier. Energy suppliers may charge for this change,
37 provided that any fee or penalty charged by the supplier associated
38 with early termination of service, shall be disclosed in that contract
39 or applicable tariff.

(d) Written notices: Notices describing the terms and conditions of service as described in Section 394.5, service agreements, notices of late payment, notices of discontinuance of service, and disconnection notices addressed to residential and small commercial customers shall be easily understandable, and shall be provided in the language in which the electric service provider offered the services.

(e) Billing: All bills shall have a standard bill format, as determined by the commission or the governing body, and shall contain sufficient detail for the customer to recalculate the bill for accuracy. Any late fees shall be separately stated. Each electric service provider shall provide on all customer bills a phone number by which customers may contact the electric service provider to report and resolve billing inquiries and complaints. An electric service provider contacted by a customer regarding a billing dispute shall advise the customer at the time of the initial contact that the customer may file a complaint with the commission if its dispute is not satisfactorily resolved by the electric service provider.

(f) Meter integrity: An electric customer shall have a reasonable opportunity to have its meter tested to ensure the reasonable accuracy of the meter. The commission or governing body shall determine who is responsible for the cost of that testing.

(g) Customer deposits: Electric service providers may require customer deposits before commencing service, but in no event shall the deposit be more than the estimated bill for the customer for a three-month period.

(h) Additional protections: The commission or the governing body may adopt additional residential and small commercial consumer protection standards that are in the public interest.

SEC. 12. Section 394.7 of the Public Utilities Code is amended to read:

394.7. (a) The commission shall maintain a list of residential and small commercial customers who do not wish to be solicited by telephone, by an electrical corporation, marketer, broker, or aggregator for electric service, to subscribe to or change their electric service provider. The commission shall not assess a charge for inclusion of a customer on the list. The list shall be updated periodically, but no less than quarterly.

(b) The list shall include sufficient information for electrical corporations, marketers, brokers, or aggregators of electric service

1 to identify customers who do not wish to be solicited, including a
2 customer's address and telephone number. The list shall be made
3 accessible electronically from the commission to any party
4 regulated as an electrical corporation or registered at the
5 commission as an electric marketer, broker, or aggregator of
6 electric service.

7 (c) An electrical corporation, marketer, broker, or aggregator
8 of electric service shall not solicit, by telephone, any customer on
9 the list prepared pursuant to subdivision (a). Any electrical
10 corporation, marketer, broker, or aggregator of electric service, or
11 the representative of an electrical corporation, marketer, broker,
12 or aggregator of electric service, who solicits any customer on the
13 list prepared pursuant to subdivision (a) more than once shall be
14 liable to the customer for twenty-five dollars (\$25) for each contact
15 in violation of this subdivision.

16 (d) This section shall not apply to the telephone verification
17 required pursuant to Section 366.5.

18 SEC. 13. Section 395.5 of the Public Utilities Code is amended
19 to read:

20 395.5. (a) For purposes of this section, the following terms
21 have the following meanings:

22 (1) "Nonprofit charitable organization" means any charitable
23 organization described in Section 501(c)(3) of the federal Internal
24 Revenue Code that has as its primary purpose serving the needs
25 of the poor or elderly.

26 (2) "Electric commodity" means electricity used by the customer
27 or a supply of electricity available for use by the customer, and
28 does not include services associated with the transmission and
29 distribution of electricity.

30 (b) Notwithstanding Section 80110 of the Water Code, a
31 nonprofit charitable organization may acquire electric commodity
32 service through a direct transaction with an electric service provider
33 if electric commodity service is donated free of charge without
34 compensation.

35 (c) A nonprofit charitable organization that acquires donated
36 electric commodity service through a direct transaction pursuant
37 to this section shall be responsible for paying all of the following:

38 (1) Those charges and surcharges that would be imposed upon
39 a retail end-use customer of a community aggregator pursuant to
40 subdivisions (d), (e), (f), and (g) of Section 366.2.

1 (2) The transmission and distribution charges of an electrical
2 corporation or a local publicly owned electric utility.

3 (3) A nonbypassable charge imposed pursuant to Article 7
4 (commencing with Section 381), Article 8 (commencing with
5 Section 385), or Article 15 (commencing with Section 399).

6 (4) Costs imposed upon a load-serving entity pursuant to Section
7 635.

8 (d) Existing direct access rules and all service obligations
9 otherwise applicable to electric service providers shall govern
10 transactions under this section.

11 (e) This section shall remain in effect only until January 1, 2015,
12 and as of that date is repealed, unless a later enacted statute, that
13 is enacted before January 1, 2015, deletes or extends that date.

14 SEC. 14. Section 454.1 of the Public Utilities Code is amended
15 to read:

16 454.1. (a) Except as provided in subdivision (b), if a customer
17 with a maximum peak electrical demand in excess of 20 kilowatts
18 located or planning to locate within the service territory of an
19 electrical corporation receives a bona fide offer for electric service
20 from an irrigation district at rates less than the electrical
21 corporation's tariffed rates, the electrical corporation may discount
22 its noncommodity rates, but may not discount its noncommodity
23 rates below its distribution marginal cost of serving that customer.
24 For purposes of this subdivision, the costs of the electric
25 commodity shall be excluded from both the irrigation district and
26 electrical corporation's rates. The electrical corporation may
27 recover any difference between its tariffed and discounted service
28 from its remaining customers, allocated as determined by the
29 commission. However, the reallocation may not increase rates to
30 its remaining customers by any greater amount than the rates would
31 be increased if the customer had taken electric distribution service
32 from the irrigation district and the irrigation district had paid the
33 charge established in subdivision (e) of Section 9607. Further,
34 there shall be a firewall preventing the reallocation of such
35 differences resulting from discounting to residential customers or
36 to commercial customers with maximum peak demands not in
37 excess of 20 kilowatts. The commission shall review the discounts
38 provided under this section by each electrical corporation and
39 report to the Legislature not later than January 15, 2003. The
40 review shall include an assessment of the effectiveness of the

1 discount levels and the rate impacts to customers of the discounts.
2 The commission shall include in its report a recommendation of
3 any changes that should be made to the discount levels in light of
4 other commission approved discount programs.

5 (b) Subdivision (a) does not apply to a cumulative 75 megawatts
6 of load served by the Merced Irrigation District, determined as
7 follows:

8 (1) The load is located within the boundaries of Merced
9 Irrigation District, as those boundaries existed on December 20,
10 1995, together with the territory of Castle Air Force Base which
11 was located outside the district on that date.

12 (2) For purposes of this section, a megawatt of load shall be
13 calculated in accordance with the methodology established by the
14 California Energy Resource Conservation and Development
15 Commission in its Docket No. 96-IRR-1890.

16 (c) Subdivision (a) applies to the load of customers that move
17 to the areas described in paragraph (1) of subdivision (b) after
18 December 31, 2000, and such load shall be excluded from the
19 calculation of the 75 megawatts in subdivision (b).

20 (d) If an electrical corporation seeks to apply the discounts
21 permitted under subdivision (a) within the geographic area
22 described in subdivision (b) of Section 9610, the electrical
23 corporation's resulting rate for distribution service may not be less
24 than 120 percent of the electrical corporation's marginal
25 distribution cost of serving that customer.

26 SEC. 15. Section 454.5 of the Public Utilities Code is amended
27 and renumbered to read:

28 636. (a) The commission shall specify the allocation of
29 electricity, including quantity, characteristics, and duration of
30 electricity delivery, that the Department of Water Resources shall
31 provide under its power purchase agreements to the customers of
32 each electrical corporation, which shall be reflected in the electrical
33 corporation's proposed procurement plan. Each electrical
34 corporation shall file a proposed procurement plan with the
35 commission not later than 60 days after the commission specifies
36 the allocation of electricity. The proposed procurement plan shall
37 specify the date that the electrical corporation intends to resume
38 procurement of electricity for its retail customers, consistent with
39 its obligation to serve. After the commission's adoption of a
40 procurement plan, the commission shall allow not less than 60

1 days before the electrical corporation resumes procurement
2 pursuant to this section.

3 (b) An electrical corporation's proposed procurement plan shall
4 include, but not be limited to, all of the following:

5 (1) An assessment of the price risk associated with the electrical
6 corporation's portfolio, including any utility-retained generation,
7 existing power purchase and exchange contracts, and proposed
8 contracts or purchases under which an electrical corporation will
9 procure electricity, electricity demand reductions, and
10 electricity-related products and the remaining open position to be
11 served by spot market transactions.

12 (2) A definition of each electricity product, electricity-related
13 product, and procurement related financial product, including
14 support and justification for the product type and amount to be
15 procured under the plan.

16 (3) The duration of the plan.

17 (4) The duration, timing, and range of quantities of each product
18 to be procured.

19 (5) A competitive procurement process under which the
20 electrical corporation may request bids for procurement-related
21 services, including the format and criteria of that procurement
22 process.

23 (6) An incentive mechanism, if any incentive mechanism is
24 proposed, including the type of transactions to be covered by that
25 mechanism, their respective procurement benchmarks, and other
26 parameters needed to determine the sharing of risks and benefits.

27 (7) The upfront standards and criteria by which the acceptability
28 and eligibility for rate recovery of a proposed procurement
29 transaction will be known by the electrical corporation prior to
30 execution of the transaction. This shall include an expedited
31 approval process for the commission's review of proposed contracts
32 and subsequent approval or rejection thereof. The electrical
33 corporation shall propose alternative procurement choices in the
34 event a contract is rejected.

35 (8) Procedures for updating the procurement plan.

36 (9) A showing that the procurement plan will achieve the
37 following:

38 (A) The electrical corporation will, in order to fulfill its unmet
39 resource needs and in furtherance of Section 701.3, until a 20
40 percent renewable resources portfolio is achieved, procure

1 renewable energy resources with the goal of ensuring that at least
2 an additional 1 percent per year of the electricity sold by the
3 electrical corporation is generated from renewable energy
4 resources, provided sufficient funds are made available pursuant
5 to Sections 399.6 and 399.15, to cover the above-market costs for
6 new renewable energy resources.

7 (B) The electrical corporation will create or maintain a
8 diversified procurement portfolio consisting of both short-term
9 and long-term electricity and electricity-related and demand
10 reduction products.

11 (C) The electrical corporation will first meet its unmet resource
12 needs through all available energy efficiency and demand reduction
13 resources that are cost effective, reliable, and feasible.

14 (10) The electrical corporation's risk management policy,
15 strategy, and practices, including specific measures of price
16 stability.

17 (11) A plan to achieve appropriate increases in diversity of
18 ownership and diversity of fuel supply of nonutility electrical
19 generation.

20 (12) A mechanism for recovery of reasonable administrative
21 costs related to procurement in the generation component of rates.

22 (c) The commission shall review and accept, modify, or reject
23 each electrical corporation's procurement plan. The commission's
24 review shall consider each electrical corporation's individual
25 procurement situation, and shall give strong consideration to that
26 situation in determining which one or more of the features set forth
27 in this subdivision shall apply to that electrical corporation. A
28 procurement plan approved by the commission shall contain one
29 or more of the following features, provided that the commission
30 may not approve a feature or mechanism for an electrical
31 corporation if it finds that the feature or mechanism would impair
32 the restoration of an electrical corporation's creditworthiness or
33 would lead to a deterioration of an electrical corporation's
34 creditworthiness:

35 (1) A competitive procurement process under which the
36 electrical corporation may request bids for procurement-related
37 services. The commission shall specify the format of that
38 procurement process, as well as criteria to ensure that the auction
39 process is open and adequately subscribed. Any purchases made

1 in compliance with the commission-authorized process shall be
2 recovered in the generation component of rates.

3 (2) An incentive mechanism that establishes a procurement
4 benchmark or benchmarks and authorizes the electrical corporation
5 to procure from the market, subject to comparing the electrical
6 corporation's performance to the commission-authorized
7 benchmark or benchmarks. The incentive mechanism shall be
8 clear, achievable, and contain quantifiable objectives and standards.
9 The incentive mechanism shall contain balanced risk and reward
10 incentives that limit the risk and reward of an electrical corporation.

11 (3) Upfront achievable standards and criteria by which the
12 acceptability and eligibility for rate recovery of a proposed
13 procurement transaction will be known by the electrical corporation
14 prior to the execution of the bilateral contract for the transaction.
15 The commission shall provide for expedited review and either
16 approve or reject the individual contracts submitted by the electrical
17 corporation to ensure compliance with its procurement plan. To
18 the extent the commission rejects a proposed contract pursuant to
19 this criteria, the commission shall designate alternative procurement
20 choices obtained in the procurement plan that will be recoverable
21 for ratemaking purposes.

22 (d) A procurement plan approved by the commission shall
23 accomplish each of the following objectives:

24 (1) Enable the electrical corporation to fulfill its obligation to
25 serve its customers at just and reasonable rates.

26 (2) Eliminate the need for after-the-fact reasonableness reviews
27 of an electrical corporation's actions in compliance with an
28 approved procurement plan, including resulting electricity
29 procurement contracts, practices, and related expenses. However,
30 the commission may establish a regulatory process to verify and
31 assure that each contract was administered in accordance with the
32 terms of the contract, and contract disputes which may arise are
33 reasonably resolved.

34 (3) Ensure timely recovery of prospective procurement costs
35 incurred pursuant to an approved procurement plan. The
36 commission shall establish rates based on forecasts of procurement
37 costs adopted by the commission, actual procurement costs
38 incurred, or combination thereof, as determined by the commission.
39 The commission shall establish power procurement balancing
40 accounts to track the differences between recorded revenues and

1 costs incurred pursuant to an approved procurement plan. The
2 commission shall review the power procurement balancing
3 accounts, not less than semiannually, and shall adjust rates or order
4 refunds, as necessary, to promptly amortize a balancing account,
5 according to a schedule determined by the commission. Until
6 January 1, 2006, the commission shall ensure that any
7 overcollection or undercollection in the power procurement
8 balancing account does not exceed 5 percent of the electrical
9 corporation's actual recorded generation revenues for the prior
10 calendar year excluding revenues collected for the Department of
11 Water Resources. The commission shall determine the schedule
12 for amortizing the overcollection or undercollection in the
13 balancing account to ensure that the 5-percent threshold is not
14 exceeded. After January 1, 2006, this adjustment shall occur when
15 deemed appropriate by the commission consistent with the
16 objectives of this section.

17 (4) Moderate the price risk associated with serving its retail
18 customers, including the price risk embedded in its long-term
19 supply contracts, by authorizing an electrical corporation to enter
20 into financial and other electricity-related product contracts.

21 (5) Provide for just and reasonable rates, with an appropriate
22 balancing of price stability and price level in the electrical
23 corporation's procurement plan.

24 (e) The commission shall provide for the periodic review and
25 prospective modification of an electrical corporation's procurement
26 plan.

27 (f) The commission may engage an independent consultant or
28 advisory service to evaluate risk management and strategy. The
29 reasonable costs of any consultant or advisory service is a
30 reimbursable expense and eligible for funding pursuant to Section
31 631.

32 (g) The commission shall adopt appropriate procedures to ensure
33 the confidentiality of any market sensitive information submitted
34 in an electrical corporation's proposed procurement plan or
35 resulting from or related to its approved procurement plan,
36 including, but not limited to, proposed or executed power purchase
37 agreements, data request responses, or consultant reports, or any
38 combination, provided that the Office of Ratepayer Advocates and
39 other consumer groups that are nonmarket participants shall be

1 provided access to this information under confidentiality
2 procedures authorized by the commission.

3 (h) Nothing in this section alters, modifies, or amends the
4 commission's oversight of affiliate transactions under its rules and
5 decisions or the commission's existing authority to investigate and
6 penalize an electrical corporation's alleged fraudulent activities,
7 or to disallow costs incurred as a result of gross incompetence,
8 fraud, abuse, or similar grounds. Nothing in this section expands,
9 modifies, or limits the State Energy Resources Conservation and
10 Development Commission's existing authority and responsibilities
11 as set forth in Sections 25216, 25216.5, and 25323 of the Public
12 Resources Code.

13 (i) An electrical corporation that serves less than 500,000 electric
14 retail customers within the state may file with the commission a
15 request for exemption from this section, which the commission
16 shall grant upon a showing of good cause.

17 (j) (1) Prior to its approval pursuant to Section 851 of any
18 divestiture of generation assets owned by an electrical corporation
19 on or after the date of enactment of the act adding this section, the
20 commission shall determine the impact of the proposed divestiture
21 on the electrical corporation's procurement rates and shall approve
22 a divestiture only to the extent it finds, taking into account the
23 effect of the divestiture on procurement rates, that the divestiture
24 is in the public interest and will result in net ratepayer benefits.

25 (2) Any electrical corporation's procurement necessitated as a
26 result of the divestiture of generation assets on or after the effective
27 date of the act adding this subdivision shall be subject to the
28 mechanisms and procedures set forth in this section only if its
29 actual cost is less than the recent historical cost of the divested
30 generation assets.

31 (3) Notwithstanding paragraph (2), the commission may deem
32 proposed procurement eligible to use the procedures in this section
33 upon its approval of asset divestiture pursuant to Section 851.

34 SEC. 16. Section 454.55 of the Public Utilities Code is
35 amended and renumbered to read:

36 637. The commission, in consultation with the State Energy
37 Resources Conservation and Development Commission, shall
38 identify all potentially achievable cost-effective electricity
39 efficiency savings and establish efficiency targets for an electrical
40 corporation to achieve pursuant to Section 636.

1 SEC. 17. Section 454.56 of the Public Utilities Code is
2 amended and renumbered to read:

3 639. (a) The commission, in consultation with the State Energy
4 Resources Conservation and Development Commission, shall
5 identify all potentially achievable cost-effective natural gas
6 efficiency savings and establish efficiency targets for the gas
7 corporation to achieve.

8 (b) A gas corporation shall first meet its unmet resource needs
9 through all available natural gas efficiency and demand reduction
10 resources that are cost effective, reliable, and feasible.

11 SEC. 18. Section 454.6 of the Public Utilities Code is amended
12 to read:

13 454.6. (a) A contract entered into pursuant to Section 636 by
14 an electrical corporation for the electricity generated by a
15 replacement or repowering project that meets the criteria specified
16 in subdivision (b) shall be recoverable in rates, taking into account
17 any collateral requirements and debt equivalence associated with
18 the contract, in a manner determined by the commission to provide
19 the best value to ratepayers.

20 (b) To be eligible for rate treatment in accordance with
21 subdivision (a), a contract shall be for a project which meets all
22 of the following criteria:

23 (1) The project is a replacement or repowering of an existing
24 generation unit of a thermal powerplant.

25 (2) The project complies with all applicable requirements of
26 federal, state, and local laws.

27 (3) The project will not require significant additional
28 rights-of-way for electrical or fuel-related transmission facilities.

29 (4) The project will result in significant and substantial increases
30 in the efficiency of the production of electricity.

31 (5) The Independent System Operator or local system operator
32 certifies that the project is needed for local area reliability.

33 (6) The project provides electricity to consumers of this state
34 at the cost of generating that electricity, including a reasonable
35 return on the investment and the costs of financing the project.

36 SEC. 19. Section 635 of the Public Utilities Code is amended
37 and renumbered to read:

38 638. In a long-term plan adopted by an electrical corporation
39 or in a procurement plan implemented by a local publicly owned
40 electric utility, the electrical corporation or local publicly owned

1 electric utility shall adopt a strategy applicable both to newly
2 constructed or repowered generation owned and procured by the
3 electrical corporation or local publicly owned electric utility to
4 achieve efficiency in the use of fossil fuels and to address carbon
5 emissions.

6 SEC. 20. Section 709.7 of the Public Utilities Code is repealed.

7 SEC. 21. Section 1701.6 of the Public Utilities Code is
8 repealed.

9 SEC. 22. Section 1822 of the Public Utilities Code is amended
10 to read:

11 1822. (a) Any computer model that is the basis for any
12 testimony or exhibit in a hearing or proceeding before the
13 commission shall be available to, and subject to verification by,
14 the commission and parties to the hearing or proceedings to the
15 extent necessary for cross-examination or rebuttal, subject to
16 applicable rules of evidence, except that verification is not required
17 for any electricity demand model or forecast prepared by the State
18 Energy Resources Conservation and Development Commission
19 pursuant to Section 25309 or 25402.1 of the Public Resources
20 Code and approved and adopted after a hearing during which
21 testimony was offered subject to cross-examination. The
22 commission shall afford each of these electricity demand models
23 or forecasts the evidentiary weight it determines appropriate.
24 Nothing in this subdivision requires the State Energy Resources
25 Conservation and Development Commission to approve or adopt
26 any electricity demand model or forecast.

27 (b) Any testimony presented in a hearing or proceeding before
28 the commission that is based in whole, or in part, on a computer
29 model shall include a listing of all the equations and assumptions
30 built into the model.

31 (c) Any database that is used for any testimony or exhibit in a
32 hearing or proceeding before the commission shall be reasonably
33 accessible to the commission staff and parties to the hearing or
34 proceeding to the extent necessary for cross-examination or
35 rebuttal, subject to applicable rules of evidence, as applied in
36 commission proceedings.

37 (d) The commission shall adopt rules and procedures to meet
38 the requirements specified in subdivisions (a), (b), and (c). These
39 rules shall include procedural safeguards that protect databases
40 and models not owned by the public utility.

1 (e) The commission shall establish appropriate procedures for
2 determining the appropriate level of compensation for a party's
3 access.

4 (f) Each party shall have access to the computer programs and
5 models of each other party to the extent provided by Section 1822.
6 The commission shall not require a utility to provide a remote
7 terminal or other direct physical link to the computer systems of
8 a utility to a third party.

9 (g) The commission shall verify, validate, and review the
10 computer models of any electrical corporation that are used for
11 the purpose of planning, operating, constructing, or maintaining
12 the corporation's electricity transmission system, and that are the
13 basis for testimony and exhibits in hearings and proceedings before
14 the commission.

15 (h) The transmission computer models shall be available to, and
16 subject to verification by, each party to a commission proceeding
17 in accordance with subdivision (a) of Section 1822, and regulations
18 adopted pursuant to subdivision (d) of Section 1822.

19 SEC. 23. Section 2791 of the Public Utilities Code is amended
20 to read:

21 2791. (a) The owner of a master-metered mobilehome park
22 or manufactured housing community that provides gas or electric
23 service to residents may transfer ownership and operational
24 responsibility to the gas or electrical corporation providing service
25 in the area in which the park or community is located pursuant to
26 this chapter, or as the park or community owner and the serving
27 gas or electrical corporation mutually agree.

28 (b) Costs, including both costs related to transfer procedures
29 and costs related to construction, related to the transfer of
30 ownership process, whether or not resulting in a transfer of
31 ownership to the serving gas or electrical corporation, shall not be
32 passed through to the park or community residents. Costs related
33 to the transfer of ownership process, whether or not resulting in a
34 transfer of ownership to the serving gas or electrical corporation,
35 shall not be passed through to the gas or electrical corporation,
36 except as otherwise provided in this chapter.

37 (c) Residents of mobilehome parks and manufactured housing
38 communities constructed after January 1, 1997, shall be
39 individually metered and served by gas and electric distribution
40 facilities owned, operated, and maintained by the gas or electrical

1 corporation providing the service in the area where the new park
2 or community is located consistent with the commission's orders
3 regarding unbundling, aggregation, master-metering, and selection
4 of suppliers by residential customers. Each gas and electrical
5 corporation shall cooperate with the owner of any park or
6 community constructed after January 1, 1997, to ensure timely
7 and expeditious installation of the gas and electric distribution
8 system and to eliminate any delay in the design, construction,
9 permitting, and operation of the gas and electric system in the park
10 or community.

11 SEC. 24. Section 2792 of the Public Utilities Code is amended
12 to read:

13 2792. (a) Upon receipt of a written notice of intent to transfer
14 from the mobilehome park or manufactured housing community
15 owner, the gas or electrical corporation shall within 90 days do all
16 of the following:

17 (1) Meet with the park or community owner to describe the
18 procedures involved in a transfer of ownership and operation
19 responsibility.

20 (2) Perform a preliminary review of the gas or electric system,
21 or both, in the park or community.

22 (3) Inspect documentation provided by the park or community
23 owner of the construction, operation, and condition of the gas or
24 electric system, or both.

25 (4) Advise the park or community owner concerning the general
26 condition of the plant and equipment, along with a preliminary
27 opinion concerning the extent of construction work or other activity
28 necessary to comply with Section 2794.

29 (5) Offer a preliminary nonbinding estimate of the cost of
30 transfer.

31 (6) Offer the park or community owner a preliminary nonbinding
32 cost estimate to perform an engineering evaluation and estimate
33 the construction work and equipment replacement to be performed
34 by the gas or electrical corporation at the owner's expense.

35 (b) The gas or electrical corporation shall develop the cost
36 estimate for the engineering evaluation in good faith using the
37 same methodology as is used for similar projects. The preliminary
38 cost estimate shall be effective for a minimum of 90 days. The gas
39 or electrical corporation shall give the owner timely notice of any
40 increase in the estimated cost of the engineering evaluation.

1 (c) During 1997, gas and electrical corporations shall make a
2 good faith effort to respond within 90 days to the notice provided
3 in subdivision (a).

4 (d) The gas or electrical corporation may charge a fee for the
5 initial inspection not to exceed one hundred fifty dollars (\$150).

6 SEC. 25. Section 2793 of the Public Utilities Code is amended
7 to read:

8 2793. (a) Upon receipt from the park or community owner of
9 a deposit representing the gas or electrical corporation's estimated
10 cost of the engineering evaluation, the gas or electrical corporation
11 shall, within 90 days, do all of the following:

12 (1) Develop an engineering plan for bringing the gas or electric
13 system to the standard described in Section 2794, incorporating
14 all relevant documentation including plans, drawings, engineering
15 studies, and other existing documentation provided by the park or
16 community owner, and considering incorporation of all portions
17 of the gas or electric system found to be used, useful, and
18 compatible.

19 (2) Develop an appraisal of the value to the gas or electrical
20 corporation of the physical plant and equipment found to be used,
21 useful, and compatible that comprise the gas or electric system,
22 or both, to be transferred, including an estimate of the remaining
23 useful life of the gas or electric system. The value to the gas or
24 electrical corporation shall take into consideration the expenditures
25 by the park or community owner to comply with the criteria
26 established in Section 2794.

27 (3) Present a proposal, in sufficient detail to serve as a bid
28 document for the transfer of ownership of the system to the gas or
29 electrical corporation.

30 (b) The proposal may be based on either of the following
31 approaches or as the park or community owner and the gas or
32 electrical corporation mutually agree:

33 (1) The park or community owner is responsible for all
34 construction and equipment replacement activity, if any, at the
35 park or community owner's expense less any credits or allowances,
36 if any, including credits or allowances based on incremental
37 increases in the gas or electrical corporation's revenues associated
38 with the park or community owner's investment in the gas or
39 electric system. The construction and equipment replacement and
40 the credits and allowances shall be based on the principles

1 established in the gas or electrical corporation's line and service
2 extension rules, if applicable.

3 (2) The gas or electrical corporation shall pay the park or
4 community owner for the appraised value to the gas or electrical
5 corporation of any gas or electric distribution facilities found to
6 be used, useful, and compatible. If any new facilities are necessary,
7 the park or community owner shall be responsible for the costs of
8 the excavation, installation of substructures, conduit and meter
9 panels, and surface repairs. Except as provided in paragraph (4)
10 of subdivision (c), the gas or electrical corporation shall be
11 responsible for the costs of any additional construction and
12 equipment replacement, including cabling and transformers.

13 (c) The proposal shall include the following:

14 (1) A description of construction and equipment replacement
15 activity, if any, to be accomplished at the park or community
16 owner's expense.

17 (2) Requirements for any additional provisions or rights for the
18 construction or maintenance of public utility facilities on park or
19 community premises, including easements and rights-of-way
20 acceptable to the gas or electrical corporation.

21 (3) Any specific requirements or costs, or both, with respect to
22 the presence of used and useful materials or equipment that are
23 nonstandard, including, but not limited to, inventory requirements,
24 specialized equipment requirements, or specialized personnel or
25 training.

26 (4) Any specific requirements or costs, or both, with respect to
27 the presence of exceptional construction conditions or operation
28 and maintenance conditions.

29 (d) If the actual cost of the engineering evaluation is greater
30 than the gas or electrical corporation estimate, the park or
31 community owner shall pay the gas or electrical corporation the
32 difference within 30 days of receipt of notice. If the actual cost of
33 the engineering evaluation is less than the deposit, the gas or
34 electrical corporation shall pay the park or community owner the
35 difference within 30 days. The content of the proposal shall become
36 the property of the park or community owner.

37 (e) Within 90 days of receipt of the proposal for transfer of
38 ownership, a park or community owner may do any of the
39 following:

1 (1) Present objections to the gas or electrical corporation in
2 writing for resolution and may require mediation of the commission
3 if the parties are unable to resolve the objection.

4 (2) Decline to proceed, without prejudice to the right to present
5 a new notice at any future date.

6 (3) Accept the proposal and contract with the gas or electrical
7 corporation for completion of the construction work and equipment
8 replacement, if any, or the acquisition of the gas or electric system,
9 or both.

10 (4) Accept the proposal and contract with an approved third
11 party for completion of the construction work and equipment
12 replacement, if any, in accordance with the applicable gas or
13 electrical corporation applicant installation rules.

14 (f) Any new facilities provided by the gas or electrical
15 corporation to extend distribution or service facilities from the
16 existing gas or electrical corporation system within the park to
17 previously undeveloped locations shall be provided in accordance
18 with line extension rules and service extension rules contained in
19 gas or electrical corporation tariffs filed with the commission,
20 including any and all free extensions, allowances, and advances
21 subject to refund.

22 (g) Upon completion of construction work and equipment
23 replacement, if any, receipt of appropriate inspection approval
24 from the gas or electrical corporation and authorities having
25 jurisdiction for the inspections, and completion of all financial
26 transactions among the parties, the park or community owner shall
27 transfer and the gas or electrical corporation shall acquire
28 ownership and operational responsibility for the gas or electric
29 system.

30 (h) Upon receipt of the proposal described in paragraph (3) of
31 subdivision (a), the park or community owner shall notify the park
32 residents concerning the pendency of a transfer process request
33 and the provisions of the transfer process law.

34 SEC. 26. Section 2794 of the Public Utilities Code is amended
35 to read:

36 2794. (a) A gas or electric system shall be considered
37 acceptable for transfer if it is in compliance with the following
38 criteria:

39 (1) It is capable of providing the end users a safe and reliable
40 source of gas or electric service.

(2) It meets the commission's general orders, is compatible, and, in the case of new construction, meets the gas or electrical corporation's design and construction standards insofar as they are related to safety and reliability. The parties may waive these requirements by mutual agreement and, where necessary, with commission approval. The deviations as are agreed upon may be reflected in the purchase price.

(3) It is capable of serving the customary expected load in the park or community determined in accordance with a site-specific study, studies of comparable parks or communities, industry standards, and the gas or electrical corporation's rules as approved by the commission.

(b) As used in this section, "customary expected load" means the anticipated level of service demanded by the dwelling units in the park or community. The park or community owner shall not be responsible for betterments or improvements to the gas or electrical corporation's distribution system facilities or operations that do not benefit the park or community.

(c) Satisfaction of the criteria shall not require any particular system architecture or replacement of used and useful equipment, plant, or facilities, except as needed to comply with subdivision (a). Equipment, facilities, or plant that are part of the existing gas or electric system shall be considered compatible unless their presence in the system would cause substantial increase in the frequency or duration of outages in the case of failure or emergency, or they have no remaining useful life. Pursuant to subdivision (c) of Section 2793, equipment, facilities, or plant that require special training for the gas or electrical corporation's employees, or require the gas or electrical corporation to maintain inventories of nonstandard equipment may be considered compatible, but their presence may be reflected in the appraised value or the cost imposed on the park or community owner.

SEC. 27. Section 2795 of the Public Utilities Code is amended to read:

2795. The park or community owner and the gas or electrical corporation shall develop a cost for the transfer of the gas or electric system that reflects the factors in Section 2793, indemnity and liability issues, and any other factors as the parties may mutually agree upon, and to which the gas or electrical corporation's ratepayers are indifferent. The parties may agree on

1 a schedule for phasing in facilities to meet expected load increases
2 and betterments, and the costs associated with those activities.

3 SEC. 28. Section 2796 of the Public Utilities Code is amended
4 to read:

5 2796. (a) During the pendency of a transfer request, the owner
6 of the park or community shall be responsible for the continued
7 maintenance to preserve the integrity of the park or community
8 gas or electric system and safe and reliable operation of the park
9 or community system in accordance with applicable laws.

10 (b) During the pendency of a transfer request the owner of the
11 park or community shall be liable for injury and damage resulting
12 from operation of the submetered gas and electric system. After
13 transfer the gas or electrical corporation shall assume responsibility
14 for operation of the gas or electric system and provision of service
15 to residents of the park or community and shall assume liability
16 for any future injury or damage resulting from operation of the
17 gas or electric system except with respect to defects known to the
18 park or community owner and not disclosed to the gas or electrical
19 corporation during the transfer of ownership process.

20 SEC. 29. Section 2797 of the Public Utilities Code is amended
21 to read:

22 2797. The commission shall permit the gas or electrical
23 corporation to recover in its revenue requirement and rates all costs
24 to acquire, improve, upgrade, operate, and maintain transferred
25 mobilehome park or manufactured housing community gas or
26 electric systems.

27 SEC. 30. Section 2798 of the Public Utilities Code is amended
28 to read:

29 2798. The commission shall adopt a standard form of agreement
30 for transfer of gas and electric distribution facilities in mobilehome
31 parks and manufactured housing communities that shall be the
32 basis for expedited approval of the transfers. The contract shall be
33 based on this chapter, the regulations of the commission, and on
34 gas or electrical corporation rules and regulations, as approved by
35 the commission.

36 SEC. 31. Section 2799 of the Public Utilities Code is amended
37 to read:

38 2799. (a) The mobilehome park or manufactured housing
39 community owner may, by written notice, stop the transfer process
40 at any time. Within 60 days of delivery to the park or community

1 owner of an itemized bill, the owner shall reimburse the gas or
2 electrical corporation for all costs incurred through the date notice
3 is provided.

4 (b) At any time during the transfer of ownership process, either
5 party may apply to the commission for informal mediation and
6 resolution of any issue, finding, determination, or delay in the
7 conversion process.

8 (c) If the initiation of the transfer process does not result in a
9 transfer of the park or community owner's gas or electric system
10 to the gas or electrical corporation, all information, data, reports,
11 studies, and proposals shall be retained by the gas or electrical
12 corporation for a period of five years or offered to the park or
13 community owner. Prior to disposal of the records, the gas or
14 electrical corporation shall offer them to the park or community
15 owner, except that the gas or electrical corporation shall not be
16 required to provide proprietary information to the park or
17 community owner.

18 SEC. 32. Section 2841 of the Public Utilities Code is amended
19 to read:

20 2841. (a) The commission may require an electrical corporation
21 to purchase from an eligible customer-generator, excess electricity
22 that is delivered to the grid that is generated by a combined heat
23 and power system that is in compliance with Section 2843. The
24 commission may establish a maximum kilowatthours limitation
25 on the amount of excess electricity that an electrical corporation
26 is required to purchase if the commission finds that the anticipated
27 excess electricity generated has an adverse effect on long-term
28 resource planning or reliable operation of the grid. The commission
29 shall establish, in consultation with the Independent System
30 Operator, tariff provisions that facilitate both the provisions of this
31 chapter and the reliable operation of the grid.

32 (b) (1) Every electrical corporation shall file with the
33 commission a standard tariff for the purchase of excess electricity
34 from an eligible customer-generator.

35 (2) The tariff shall provide for payment for every kilowatthour
36 delivered to the electrical grid by the combined heat and power
37 system at a price determined by the commission.

38 (3) The tariff shall include flexible rates with options for
39 different durations, not to exceed 10 years, and fixed or variable
40 rates relative to the cost of natural gas.

1 (4) The commission shall ensure that ratepayers not utilizing
2 combined heat and power systems are held indifferent to the
3 existence of this tariff.

4 (c) The commission, in reviewing the tariff filed by an electrical
5 corporation, shall establish time-of-delivery rates that encourage
6 demand management and net generation of electricity during
7 periods of peak system demand.

8 (d) Every electrical corporation shall make the tariff available
9 to eligible customer-generators that own, or lease, and operate a
10 combined heat and power system within the service territory of
11 the electrical corporation, upon request. An electrical corporation
12 may make the terms of the tariff available to an eligible customer
13 in the form of a standard contract.

14 (e) The costs and benefits associated with any tariff or contract
15 entered into by an electrical corporation pursuant to this section
16 shall be allocated to all benefiting customers. For purposes of this
17 section “benefiting customers” may, as determined by the
18 commission, include bundled service customers of the electrical
19 corporation, customers of the electrical corporation that receive
20 their electric service through a direct transaction, as defined in
21 subdivision (c) of Section 331, and customers of an electrical
22 corporation that receive their electric service from a community
23 choice aggregator, as defined in Section 331.1.

24 (f) The physical generating capacity of the combined heat and
25 power system shall count toward the resource adequacy
26 requirements of load-serving entities for purposes of Section 635.

27 (g) The commission shall adopt or maintain standby rates or
28 charges for combined heat and power systems that are based only
29 upon assumptions that are supported by factual data, and shall
30 exclude any assumptions that forced outages or other reductions
31 in electricity generation by combined heat and power systems will
32 occur simultaneously on multiple systems, or during periods of
33 peak electrical system demand, or both.

34 (h) The commission may modify or adjust the requirements of
35 this article for any electrical corporation with less than 100,000
36 service connections, as individual circumstances merit.

37 SEC. 33. Section 2842 of the Public Utilities Code is amended
38 to read:

39 2842. The commission, in approving a procurement plan for
40 an electrical corporation pursuant to Section 636, shall require that

1 the electrical corporation's procurement plan incorporate combined
2 heat and power solutions to the extent that it is cost effective
3 compared to other competing forms of wholesale generation,
4 technologically feasible, and environmentally beneficial,
5 particularly as it pertains to reducing emissions of carbon dioxide
6 and other greenhouse gases.

7 SEC. 34. Section 2842.4 of the Public Utilities Code is
8 amended to read:

9 2842.4. (a) The commission shall, for each electrical
10 corporation, establish a pay-as-you-save pilot program for eligible
11 customers.

12 (b) For the purposes of this section, an "eligible customer"
13 means a customer of an electrical corporation that meets the
14 following criteria:

15 (1) The customer uses a combined heat and power system with
16 a generating capacity of not more than 20 megawatts that is in
17 compliance with Section 2843.

18 (2) The customer is any of the following:

19 (A) A nonprofit organization described in Section 501(c) (3) of
20 the Internal Revenue Code (26 U.S.C. Sec. 501(c) (3)), that is
21 exempt from taxation under Section 501(a) of that code (26 U.S.C.
22 Sec. 501(a)).

23 (B) A federal, state, or local government facility.

24 (c) The pilot program shall enable an eligible customer to
25 finance all of the upfront costs for the purchase and installation of
26 a combined heat and power system by repaying those costs over
27 time through on-bill financing at the difference between what an
28 eligible customer would have paid for electricity and the actual
29 savings derived for a period of up to 10 years.

30 (d) The commission shall ensure that the reasonable costs of
31 the electrical corporation associated with the pilot program are
32 recovered.

33 (e) All costs of the pay-as-you-save program or financing
34 mechanisms shall be borne solely by the combined heat and power
35 generators that use the program or financing mechanisms, and the
36 commission shall ensure that the costs of the program are not
37 shifted to the other customers or classes of customers of the
38 electrical corporation.

39 (f) Each electrical corporation shall make on-bill financing
40 available to eligible customers until the statewide cumulative rated

1 generating capacity from pilot program combined heat and power
2 systems in the service territories of the three largest electrical
3 corporations in the state reaches 100 megawatts. An electrical
4 corporation shall only be required to participate in the pilot program
5 until it meets its proportionate share of the 100-megawatt
6 limitation, based on the percentage of its peak demand to the total
7 statewide peak demand within the service territories of all electrical
8 corporations.

9 (g) An approval made by the Department of Finance for a state
10 agency to purchase, lease, or otherwise acquire a combined heat
11 and power facility that would be financed through the
12 pay-as-you-save pilot program, may not be made sooner than 30
13 days after written notification thereof is provided to the
14 Chairperson of the Senate Committee on Budget and Fiscal
15 Review, the Chairperson of the Assembly Committee on Budget,
16 and the Chairperson of the Joint Legislative Budget Committee,
17 or not sooner than whatever lesser time the Chairperson of the
18 Joint Legislative Budget Committee may determine.

19 SEC. 35. Section 2889.4 of the Public Utilities Code is
20 amended to read:

21 2889.4. (a) A local exchange carrier that offers and charges
22 for pay per use features that do not require an access code to be
23 dialed to activate the service shall provide a new residential
24 subscriber, including an existing residential customer ordering an
25 additional line, during the verbal service order process, with
26 information about those features. The representatives of a carrier
27 shall offer that subscriber blocking options for those features.

28 (b) (1) A local exchange carrier that offers the features
29 described in subdivision (a) shall advise an existing residential
30 subscriber who inquires about the features, or who seeks a bill
31 adjustment for the inadvertent or unauthorized use of those per
32 use custom calling features, that the features can be blocked and
33 shall inquire as to whether the subscriber would like to block any
34 or all of the features.

35 (2) (A) A local exchange carrier that offers the features
36 described in subdivision (a) shall provide notice to all existing
37 residential subscribers not later than May 1, 2000, describing all
38 features provided on a per use basis, the charge for each activation,
39 any additional usage or other charges, and detailed information
40 about the ability to block these features.

1 (B) The notice shall contain a toll-free number for further
2 information and shall contain a noticeable postcard size bill insert
3 that may be returned in the subscriber's bill envelope if they wish
4 to block any or all of the per use features described in subdivision
5 (a).

6 (c) A local exchange service subscriber that has not blocked per
7 use features in accordance with this section is entitled to a one-time
8 bill adjustment that shall equal the sum of the charges for every
9 incident that occurred during the first billing cycle pursuant to
10 which the subscriber notifies the local exchange carrier that
11 inadvertent or unauthorized activation occurred with regard to
12 those per use services that do not require coded dialing to activate.
13 The one-time bill adjustment shall include an adjustment for any
14 additional usage charges occurring as a result of inadvertent or
15 unauthorized activation. The adjustment shall take the form of a
16 credit to the subscriber's account if the existing technology or
17 facilities of the local exchange carrier measure usage and permit
18 a usage credit to be determined and provided.

19 (d) Nothing in this section prohibits a local exchange carrier
20 from providing additional bill adjustments at its discretion in
21 connection with charges imposed for features described in
22 subdivision (a).

23 SEC. 36. Section 2889.5 of the Public Utilities Code is
24 amended to read:

25 2889.5. (a) A telephone corporation, or any person, firm, or
26 corporation representing a telephone corporation, shall not make
27 any change or authorize a different telephone corporation to make
28 any change in the provider of any telephone service for which
29 competition has been authorized of a telephone subscriber until
30 all of the following steps have been completed:

31 (1) The telephone corporation, its representatives or agents shall
32 thoroughly inform the subscriber of the nature and extent of the
33 service being offered.

34 (2) The telephone corporation, its representatives or agents shall
35 specifically establish whether the subscriber intends to make any
36 change in his or her telephone service provider, and explain any
37 charges associated with that change.

38 (3) For sales of residential service, the subscriber's decision to
39 change his or her telephone service provider shall be confirmed
40 by an independent third-party verification company, or as provided

1 in paragraph (5). For purposes of this provision, the confirmation
2 by a third-party verification company shall be made as follows:

3 (A) The third-party verification company shall meet each of the
4 following criteria:

5 (i) Be independent from the telephone corporation that seeks to
6 provide the subscriber's new service.

7 (ii) Not be directly or indirectly managed, controlled, or directed,
8 or owned wholly or in part, by the telephone corporation that seeks
9 to provide the new service or by any corporation, firm, or person
10 who directly or indirectly manages, controls, or directs, or owns
11 more than 5 percent of the telephone corporation.

12 (iii) Operate from facilities physically separate from those of
13 the telephone corporation that seeks to provide the subscriber's
14 new service.

15 (iv) Not derive commissions or compensation based upon the
16 number of sales confirmed.

17 (B) The telephone corporation seeking to verify the sale shall
18 do so by connecting the subscriber by telephone to the third-party
19 verification company or by arranging for the third-party verification
20 company to call the subscriber to confirm the sale.

21 (C) The third-party verification company shall obtain the
22 subscriber's oral confirmation regarding the change, and shall
23 record that confirmation by obtaining appropriate verification data.
24 The record shall be available to the subscriber upon request.
25 Information obtained from the subscriber through confirmation
26 shall not be used for marketing purposes. Any unauthorized release
27 of this information is grounds for a civil suit by the aggrieved
28 subscriber against the telephone corporation or its employees who
29 are responsible for the violation.

30 (D) Notwithstanding subparagraphs (A), (B), and (C), a service
31 provider shall not be required to comply with these verification
32 requirements when the customer directly calls the local service
33 provider to make changes in service providers. However, a service
34 provider shall not avoid the verification requirements by asking a
35 subscribing customer to contact a local exchange carrier directly
36 to make any change in the service provider. A local exchange
37 carrier shall be required to comply with these verification
38 requirements for its own competitive services. However, a local
39 exchange carrier shall not be required to perform any verification

1 requirements for any changes solicited by another telephone
2 corporation.

3 (4) For a sale of residential service, the telephone corporation
4 seeking to verify the change in service, in addition to the
5 requirements of paragraph (3), shall notify the subscriber by United
6 States Postal Service that the subscriber's telephone service
7 provider has been changed. The service provider that initiated the
8 change shall send that notice within 14 days of the date of the
9 change. The notice shall provide the subscriber with clear, legible
10 notice of the change in service provider, and shall include a
11 customer service telephone number for the subscriber to call if the
12 subscriber did not authorize the change in service.

13 (5) Confirmation of a sale of residential service may be made
14 using an electronic means that complies with Section 64.1120 of
15 Title 47 of the Code of Federal Regulations in effect as of June
16 17, 2008.

17 (6) For sales of all nonresidential services, the subscriber's
18 decision to change his or her service provider shall be confirmed
19 through any of the following means:

20 (A) Independent third-party verification, as set forth in paragraph
21 (3).

22 (B) The telephone corporation shall mail to the subscriber an
23 information package seeking confirmation of his or her change in
24 the telephone corporation. The information package shall describe
25 the new service and shall include a postage prepaid postcard or
26 mailer that the subscriber can use to deny, cancel, or confirm a
27 service order, as soon as possible, and wait 14 days after the
28 information package is mailed before making the change in the
29 telephone corporation. The telephone corporation shall make the
30 change only if the subscriber does not cancel the change in service
31 order.

32 (C) Verify the subscriber's change in his or her telephone service
33 provider by obtaining the subscriber's signature on a document
34 fully explaining the nature and extent of the action. The document
35 shall be a separate document, the sole purpose of which is to
36 explain the nature and extent of the action.

37 (D) Obtain the subscriber's authorization through an electronic
38 means that takes the information, including the calling number,
39 and confirms the change to which the subscriber has given his or
40 her consent.

(7) Where the telephone corporation obtains a written order for service, the document shall thoroughly inform the subscriber of the nature and extent of the action. The subscriber shall be furnished with a copy of the signed document. The subscriber by his or her signature on the document shall indicate a full understanding of the relationship being established with the telephone corporation. If a written subscriber solicitation or other document contains a letter of agency authorizing a change in service provider, in combination with other information including, but not limited to, inducements to subscribers to purchase service, the solicitation shall include a separate document, the sole purpose of which is to explain the nature and extent of the action. If any part of a mailing to a prospective subscriber is in language other than English, any written authorization contained in the mailing shall be sent to the same prospective subscriber in the same language.

(8) The telephone corporation shall retain a record of the verification of the sale for at least one year. These records shall be made available to the subscriber, the Attorney General, or the commission upon request.

(b) If a residential or business subscriber that has not signed an authorization notifies the telephone corporation within 90 days that he or she does not wish to change telephone corporations, the subscriber shall be switched back to his or her former telephone corporation at the expense of the telephone corporation that initiated the change.

(c) For purposes of this section, competitive services are those services where subscribers have the ability to presubscribe to a telephone service provider.

(d) When a subscriber changes telephone service providers, the change shall be conspicuously noticed on the subscriber's bill. Notice in the following form is deemed to comply with this subdivision:

“NOTICE: Your local (or long distance) telephone service provider has been changed from (name of prior provider) to (name of current provider).

Cost of change: \$ ____.”

(e) Any telephone corporation that violates the verification procedures described in this section shall be liable to the telephone

1 corporation previously selected by the subscriber in an amount
2 equal to all charges paid by the subscriber after the violation.

3 (f) In addition to the liability described in subdivision (e), any
4 telephone corporation that violates the verification procedures
5 described in this section shall credit to a subscriber any charges
6 paid by the subscriber in excess of the amount that the subscriber
7 would have been obligated to pay had the subscriber's telephone
8 service not been changed. The commission shall adopt regulations
9 to govern credits to subscribers pursuant to this subdivision.

10 (g) The remedies provided by this section are in addition to any
11 other remedies available by law.

12 (h) As described in federal law, no telephone corporation, or
13 any person, firm, or corporation representing a telephone
14 corporation, shall make any change or authorize a different
15 telephone corporation to make any change in the provider of any
16 telephone service for which competition has been authorized of a
17 telephone subscriber without having on file, or having instituted
18 reasonable steps designed to obtain, signed, dated orders for service
19 from the subscriber. All orders shall be in the form prescribed in
20 federal law for letters of agency. As described in federal law, the
21 telephone corporation is responsible for charges associated with
22 disputed changes in telephone service for which it cannot produce
23 a signed, dated order for service from the subscriber. This
24 subdivision applies to all intrastate services for which competition
25 has been authorized.

26 SEC. 37. Section 2894 of the Public Utilities Code is amended
27 to read:

28 2894. (a) Notwithstanding subdivision (e) of Section 2891,
29 the disclosure of any information by an interexchange telephone
30 corporation, a local exchange carrier, or a provider of commercial
31 mobile radio service, as defined in Section 216.8, in good faith
32 compliance with the terms of a state or federal court warrant or
33 order or administrative subpoena issued at the request of a law
34 enforcement official or other federal, state, or local governmental
35 agency for law enforcement purposes, is a complete defense against
36 any civil action brought under this chapter or any other law,
37 including, but not limited to, Chapter 1.5 (commencing with
38 Section 630) of Title 15 of Part 1 of the Penal Code, for the
39 wrongful disclosure of that information.

(b) As used in this section the following terms have the following meanings:

(1) “Interexchange telephone corporation” means a telephone corporation that is a long-distance carrier.

(2) “Local exchange carrier” means a telephone corporation that provides local exchange services.

SEC. 38.—Section 5142 of the Public Utilities Code is amended to read:

5142. (a) ~~Except as provided in Section 5133, a household goods carrier in compliance with this chapter has a lien on used household goods and personal effects to secure payment of the amount specified in subdivision (b) for transportation and additional services ordered by the consignor. No lien attaches to food, medicine, or medical devices, items used to treat or assist an individual with a disability, or items used for the care of a minor child.~~

~~(b) (1) The amount secured by the lien is the maximum total dollar amount for the transportation of the household goods and personal effects and any additional services (including any bona fide change order permitted under the commission’s tariffs) that is set forth clearly and conspicuously in writing adjacent to the space reserved for the signature of the consignor and that is agreed to by the consignor before any goods or personal effects are moved from their location or any additional services are performed.~~

~~(2) The dollar amount for the transportation of household goods and personal effects and additional services may not be preprinted on any form, shall be just and reasonable, and shall be established in good faith by the household goods carrier based on the specific circumstances of the services to be performed.~~

~~(c) Upon tender to the household goods carrier of the amount specified in subdivision (b), the lien is extinguished, and the household goods carrier shall release all household goods and personal effects to the consignee. Any person having possession or control of household goods or personal effects, who knows, or through the exercise of reasonable care should know, that the household goods carrier has been tendered the amount specified in subdivision (b), shall release the household goods and personal effects to the consignor or consignee, upon the request of the consignor or consignee. If the person fails to release the household goods and personal effects to the consignor or consignee, any peace~~

1 officer, as defined in subdivision (c) of Section 5133, may take
2 custody of the household goods and personal effects and release
3 them to the consignor or consignee.

4 (d) A household goods carrier may enforce the lien on household
5 goods and personal effects provided in this section except as to
6 any goods that the carrier voluntarily delivers or unjustifiably
7 refuses to deliver. The lien shall be enforced pursuant to the
8 procedure set forth in subdivision (b) of Section 7210 of the
9 Commercial Code.

10 (e) Notwithstanding subdivision (b), in the event it is necessary
11 to auction the consignor's goods, the household goods carrier may
12 deduct, after the sale, its reasonably incurred expenses related to
13 the sale of the goods in addition to the contract maximum total
14 dollar amount. Within 14 days after the sale, the carrier shall
15 provide, without charge, an accounting of the proceeds of the sale.

16 (f) Nothing in this section affects any rights, if any, of a
17 household goods carrier to claim additional amounts, on an
18 unsecured basis, or of a consignor or consignee to make or contest
19 any claim, and tender of payment of the amount specified in
20 subdivision (b) is not a waiver of claims by the consignor or
21 consignee.

22 (g) Any person injured by a violation of this section may bring
23 an action for the recovery of the greater of one thousand dollars
24 (\$1,000) or actual damages, injunctive or other equitable relief,
25 reasonable attorney's fees and costs, and exemplary damages of
26 not less than three times the amount of actual damages for a willful
27 violation.

28 (h) Any waiver of this section shall be void and unenforceable.

29 (i) Notwithstanding any other law, this section exclusively
30 establishes and provides for a household goods carrier's lien on
31 used household goods and personal effects to secure payment for
32 transportation and additional services ordered by the consignor.

33 (j) For purposes of this section, the following terms have the
34 following meaning:

35 (1) "Consignor" means the person named in the bill of lading
36 as the person from whom the household goods and personal effects
37 have been received for shipment and that person's agent.

38 (2) "Consignee" means the person named in the bill of lading
39 to whom or to whose order the household goods carrier is required

1 to make delivery as provided in the bill of lading and that person's
2 agent.

3 ~~SEC. 39.~~

4 *SEC. 38.* Section 7000 of the Public Utilities Code is amended
5 to read:

6 7000. (a) For purposes of this chapter, a utility shall mean all
7 of the following:

8 (1) An electrical corporation.

9 (2) A water corporation.

10 (3) A telephone corporation.

11 (4) A telecommunications carrier, as defined in Section 153 of
12 Title 47 of the United States Code.

13 (5) A gas corporation.

14 (6) A local publicly owned electric utility and a publicly owned
15 gas utility.

16 (7) A special district that owns or operates utilities.

17 (b) This chapter shall also apply to the following entities:

18 (1) A cable television corporation.

19 (2) A cable operator, as defined in Section 522 of Title 47 of
20 the United States Code.

21 ~~SEC. 40.~~

22 *SEC. 39.* Section 8341 of the Public Utilities Code is amended
23 to read:

24 8341. (a) No load-serving entity or local publicly owned
25 electric utility may enter into a long-term financial commitment
26 unless any baseload generation supplied under the long-term
27 financial commitment complies with the greenhouse gases emission
28 performance standard established by the commission, pursuant to
29 subdivision (d), for a load-serving entity, or by the Energy
30 Commission, pursuant to subdivision (e), for a local publicly owned
31 electric utility.

32 (b) (1) The commission shall not approve a long-term financial
33 commitment by an electrical corporation unless any baseload
34 generation supplied under the long-term financial commitment
35 complies with the greenhouse gases emission performance standard
36 established by the commission pursuant to subdivision (d).

37 (2) The commission may, in order to enforce this section, review
38 any long-term financial commitment proposed to be entered into
39 by an electric service provider or a community choice aggregator.

1 (3) The commission shall adopt rules to enforce the requirements
2 of this section, for load-serving entities. The commission shall
3 adopt procedures, for all load-serving entities, to verify the
4 emissions of greenhouse gases from any baseload generation
5 supplied under a contract subject to the greenhouse gases emission
6 performance standard to ensure compliance with the standard.

7 (4) In determining whether a long-term financial commitment
8 is for baseload generation, the commission shall consider the design
9 of the powerplant and the intended use of the powerplant, as
10 determined by the commission based upon the electricity purchase
11 contract, any certification received from the Energy Commission,
12 any other permit or certificate necessary for the operation of the
13 powerplant, including a certificate of public convenience and
14 necessity, any procurement approval decision for the load-serving
15 entity, and any other matter the commission determines is relevant
16 under the circumstances.

17 (5) Costs incurred by an electrical corporation to comply with
18 this section, including those costs incurred for electricity purchase
19 agreements that are approved by the commission that comply with
20 the greenhouse gases emission performance standard, are to be
21 treated as procurement costs incurred pursuant to an approved
22 procurement plan and the commission shall ensure timely cost
23 recovery of those costs pursuant to paragraph (3) of subdivision
24 (d) of Section 636.

25 (6) A long-term financial commitment entered into through a
26 contract approved by the commission, for electricity generated by
27 a zero- or low-carbon generating resource that is contracted for,
28 on behalf of consumers of this state on a cost-of-service basis,
29 shall be recoverable in rates, in a manner determined by the
30 commission consistent with Section 635. The commission may,
31 after a hearing, approve an increase from one-half to 1 percent in
32 the return on investment by the third party entering into the contract
33 with an electrical corporation with respect to investment in zero-
34 or low-carbon generation resources authorized pursuant to this
35 subdivision.

36 (c) (1) The Energy Commission shall adopt regulations for the
37 enforcement of this chapter with respect to a local publicly owned
38 electric utility.

39 (2) The Energy Commission may, in order to ensure compliance
40 with the greenhouse gases emission performance standard by local

1 publicly owned electric utilities, apply the procedures adopted by
2 the commission to verify the emissions of greenhouse gases from
3 baseload generation pursuant to subdivision (b).

4 (3) In determining whether a long-term financial commitment
5 is for baseload generation, the Energy Commission shall consider
6 the design of the powerplant and the intended use of the
7 powerplant, as determined by the Energy Commission based upon
8 the electricity purchase contract, any certification received from
9 the Energy Commission, any other permit for the operation of the
10 powerplant, any procurement approval decision for the load-serving
11 entity, and any other matter the Energy Commission determines
12 is relevant under the circumstances.

13 (d) (1) On or before February 1, 2007, the commission, through
14 a rulemaking proceeding, and in consultation with the Energy
15 Commission and the State Air Resources Board, shall establish a
16 greenhouse gases emission performance standard for all baseload
17 generation of load-serving entities, at a rate of emissions of
18 greenhouse gases that is no higher than the rate of emissions of
19 greenhouse gases for combined-cycle natural gas baseload
20 generation. Enforcement of the greenhouse gases emission
21 performance standard shall begin immediately upon the
22 establishment of the standard. All combined-cycle natural gas
23 powerplants that are in operation, or that have an Energy
24 Commission final permit decision to operate as of June 30, 2007,
25 shall be deemed to be in compliance with the greenhouse gases
26 emission performance standard.

27 (2) In determining the rate of emissions of greenhouse gases
28 for baseload generation, the commission shall include the net
29 emissions resulting from the production of electricity by the
30 baseload generation.

31 (3) The commission shall establish an output-based methodology
32 to ensure that the calculation of emissions of greenhouse gases for
33 cogeneration recognizes the total usable energy output of the
34 process, and includes all greenhouse gases emitted by the facility
35 in the production of both electrical and thermal energy.

36 (4) In calculating the emissions of greenhouse gases by facilities
37 generating electricity from biomass, biogas, or landfill gas energy,
38 the commission shall consider net emissions from the process of
39 growing, processing, and generating the electricity from the fuel
40 source.

1 (5) Carbon dioxide that is injected in geological formations, so
2 as to prevent releases into the atmosphere, in compliance with
3 applicable laws and regulations shall not be counted as emissions
4 of the powerplant in determining compliance with the greenhouse
5 gases emissions performance standard.

6 (6) In adopting and implementing the greenhouse gases emission
7 performance standard, the commission, in consultation with the
8 Independent System Operator shall consider the effects of the
9 standard on system reliability and overall costs to electricity
10 customers.

11 (7) In developing and implementing the greenhouse gases
12 emission performance standard, the commission shall address
13 long-term purchases of electricity from unspecified sources in a
14 manner consistent with this chapter.

15 (8) In developing and implementing the greenhouse gases
16 emission performance standard, the commission shall consider
17 and act in a manner consistent with any rules adopted pursuant to
18 Section 824a-3 of Title 16 of the United States Code.

19 (9) An electrical corporation that provides electric service to
20 75,000 or fewer retail end-use customers in California may file
21 with the commission a proposal for alternative compliance with
22 this section, which the commission may accept upon a showing
23 by the electrical corporation of both of the following:

24 (A) A majority of the electrical corporation's retail end-use
25 customers for electric service are located outside of California.

26 (B) The emissions of greenhouse gases to generate electricity
27 for the retail end-use customers of the electrical corporation are
28 subject to a review by the utility regulatory commission of at least
29 one other state in which the electrical corporation provides
30 regulated retail electric service.

31 (e) (1) On or before June 30, 2007, the Energy Commission,
32 at a duly noticed public hearing and in consultation with the
33 commission and the State Air Resources Board, shall establish a
34 greenhouse gases emission performance standard for all baseload
35 generation of local publicly owned electric utilities at a rate of
36 emissions of greenhouse gases that is no higher than the rate of
37 emissions of greenhouse gases for combined-cycle natural gas
38 baseload generation. The greenhouse gases emission performance
39 standard established by the Energy Commission for local publicly
40 owned electric utilities shall be consistent with the standard adopted

1 by the commission for load-serving entities. Enforcement of the
2 greenhouse gases emission performance standard shall begin
3 immediately upon the establishment of the standard. All
4 combined-cycle natural gas powerplants that are in operation, or
5 that have an Energy Commission final permit decision to operate
6 as of June 30, 2007, shall be deemed to be in compliance with the
7 greenhouse gases emission performance standard.

8 (2) The greenhouse gases emission performance standard shall
9 be adopted by regulation pursuant to the Administrative Procedure
10 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of
11 Division 3 of Title 2 of the Government Code).

12 (3) In determining the rate of emissions of greenhouse gases
13 for baseload generation, the Energy Commission shall include the
14 net emissions resulting from the production of electricity by the
15 baseload generation.

16 (4) The Energy Commission shall establish an output-based
17 methodology to ensure that the calculation of emissions of
18 greenhouse gases for cogeneration recognizes the total usable
19 energy output of the process, and includes all greenhouse gases
20 emitted by the facility in the production of both electrical and
21 thermal energy.

22 (5) In calculating the emissions of greenhouse gases by facilities
23 generating electricity from biomass, biogas, or landfill gas energy,
24 the Energy Commission shall consider net emissions from the
25 process of growing, processing, and generating the electricity from
26 the fuel source.

27 (6) Carbon dioxide that is captured from the emissions of a
28 powerplant and that is permanently disposed of in geological
29 formations in compliance with applicable laws and regulations,
30 shall not be counted as emissions from the powerplant.

31 (7) In adopting and implementing the greenhouse gases emission
32 performance standard, the Energy Commission, in consultation
33 with the Independent System Operator, shall consider the effects
34 of the standard on system reliability and overall costs to electricity
35 customers.

36 (8) In developing and implementing the greenhouse gases
37 emission performance standard, the Energy Commission shall
38 address long-term purchases of electricity from unspecified sources
39 in a manner consistent with this chapter.

(9) In developing and implementing the greenhouse gases emission performance standard, the Energy Commission shall consider and act in a manner consistent with any rules adopted pursuant to Section 824a-3 of Title 16 of the United States Code.

(f) The Energy Commission, in a duly noticed public hearing and in consultation with the commission and the State Air Resources Board, shall reevaluate and continue, modify, or replace the greenhouse gases emission performance standard when an enforceable greenhouse gases emissions limit is established and in operation, that is applicable to local publicly owned electric utilities.

(g) The commission, through a rulemaking proceeding and in consultation with the Energy Commission and the State Air Resources Board, shall reevaluate and continue, modify, or replace the greenhouse gases emission performance standard when an enforceable greenhouse gases emissions limit is established and in operation, that is applicable to load-serving entities.

~~SEC. 41.~~

SEC. 40. Section 8366 of the Public Utilities Code is amended to read:

8366. Smart grid technology may be deployed in a manner to maximize the benefit and minimize the cost to ratepayers and to achieve the benefits of smart grid technology. The commission, in consultation with the Energy Commission, the ISO, and electrical corporations, shall evaluate the impact of deployment on major initiatives and policies including:

(a) Implementation of new advanced metering initiatives.

(b) Achievement of the renewables portfolio standard program requirements and the need to operate the smart grid of the future with a substantial increased percentage of electricity generated by eligible renewable energy resources.

(c) Achievement of state goals for reducing emissions of greenhouse gases as set forth in the California Global Warming Solutions Act of 2006 and other state directives.

(d) Achievement of the energy efficiency and demand response goals as required by Sections 636 and 637 and other state directives.

(e) Modernizing the aging utility grid infrastructure.

(f) Meeting the future energy growth needs of the state with new and innovative technologies and methods that utilize the

1 existing assets more efficiently, result in a less environmentally
2 adverse net impact on the state, meet stringent costs versus benefit
3 assessments, and provide the ratepayers with new options in
4 meeting their individual energy needs.

5 (g) Implementation of technology to improve worker safety,
6 protection, and productivity.

7 ~~SEC. 42.~~

8 *SEC. 41.* The heading of Chapter 5 (commencing with Section
9 8380) is added to Division 4.1 of the Public Utilities Code, to read:

10
11 CHAPTER 5. COMPREHENSIVE ENERGY EFFICIENCY PROGRAM
12 IMPLEMENTATION

13
14 ~~SEC. 43.~~

15 *SEC. 42.* Section 9607 of the Public Utilities Code is amended
16 to read:

17 9607. (a) The intent of this section is to avoid cost-shifting to
18 customers of an electrical corporation resulting from the transfer
19 of distribution services from an electrical corporation to an
20 irrigation district.

21 (b) Except as otherwise provided in this section and Section
22 9608, and notwithstanding any other provision of law, an irrigation
23 district that offered electric service to retail customers as of January
24 1, 1999, may not construct, lease, acquire, install, or operate
25 facilities for the distribution or transmission of electricity to retail
26 customers located in the service territory of an electrical
27 corporation providing electric distribution services, unless the
28 district has first applied for and received the approval of the
29 commission and implements its service consistent with the
30 commission's order. The commission shall find that service to be
31 in the public interest and shall approve the request of a district to
32 provide distribution or transmission of electricity to retail customers
33 located in the service territory of an electrical corporation providing
34 electric distribution service if, after notice and hearing, the
35 commission determines all of the following:

36 (1) The district will provide universal service to all retail
37 customers who request service within the area to be served, at
38 published tariff rates and on a just, reasonable, and
39 nondiscriminatory basis, comparable to that provided by the current
40 retail service provider.

1 (2) If the area the district is proposing to serve is either of the
2 following:

3 (A) Is within the district's boundaries but less than the entire
4 district, the area to be served includes a percentage of residential
5 customers and small customers, based on load, comparable to the
6 percentage of residential and small customers in the district, based
7 on load.

8 (B) Includes territory outside the district's boundaries, in which
9 case the territory outside the district's boundaries must include a
10 percentage of residential customers and small customers, based
11 on load, comparable to the percentage of residential and small
12 customers in the county or counties where service is to be provided,
13 based on load.

14 (3) Service by the district will be consistent with the intent of
15 the state to avoid economic waste caused by duplication of facilities
16 as set forth in Section 8101.

17 (4) Service by the district will include reasonable mitigation of
18 any adverse effects on the reliability of an existing service by the
19 electrical corporation.

20 (5) The district has established, funded, and is carrying out
21 public purpose and low-income programs comparable to those
22 provided by the current electric retail service provider.

23 (6) That district's tariffed electric rates, exclusive of commodity
24 costs, will be at least 15 percent below the tariffed electric rates,
25 exclusive of commodity costs and nonbypassable charges under
26 Sections 367, 368, 375, 376, and 379, of the electrical corporation
27 for comparable services.

28 (7) Service by the district is in the public interest.

29 (c) An irrigation district that obtains the approval of the
30 commission under this section to serve an area shall prepare an
31 annual report available to the public on the total load and number
32 of accounts of residential, low-income, agricultural, commercial,
33 and industrial customers served by the irrigation district in the
34 approved service area.

35 (d) The commission shall have jurisdiction to resolve and
36 adjudicate complaint cases brought against an irrigation district
37 that offered electric service to retail customers as of January 1,
38 1999, by an interested party where the complaint concerns retail
39 electric service outside the boundaries of the district and within
40 the service territory of an electrical corporation. Nothing in this

1 section grants the commission jurisdiction to adjudicate complaint
2 cases involving retail electric service by an irrigation district inside
3 its boundaries or inside an irrigation district's exclusive service
4 territory.

5 (e) Any project involving electric transmission or distribution
6 facilities to be constructed or installed by an irrigation district to
7 serve retail customers located in the service territory of an electrical
8 corporation providing electric distribution services shall comply
9 with the California Environmental Quality Act, (Division 13
10 (commencing with Section 21000)) of the Public Resources Code.
11 The county in which the construction or installation is to occur
12 shall act as the lead agency. If a project involves the construction
13 or installation of electric transmission or distribution facilities in
14 more than one county, the county where the majority of the
15 construction is anticipated to occur shall act as the lead agency.

16 (f) An irrigation district may not offer service to customers
17 outside of its district boundaries before offering service to all
18 customers within its district boundaries.

19 (g) This section does not apply to electric distribution service
20 provided by Modesto Irrigation District to those customers or
21 within those areas described in subdivisions (a), (b), and (c) of
22 Section 9610.

23 (h) The provisions of this section shall not apply to (1) a
24 cumulative 90 megawatts of load served by the Merced Irrigation
25 District that is located within the boundaries of Merced Irrigation
26 District, as those boundaries existed on December 20, 1995,
27 together with the territory of Castle Air Force Base which was
28 located outside the District on that date, or (2) electric load served
29 by the District which was not previously served by an electrical
30 corporation that is located within the boundaries of Merced
31 Irrigation District, as those boundaries existed on December 20,
32 1995, together with the territory of Castle Air Force Base which
33 was located outside the District on that date.

34 (i) For purposes of this section, a megawatt of load shall be
35 calculated in accordance with the methodology established by the
36 California Energy Resource Conservation and Development
37 Commission in its Docket No. 96-IRR-1890, but the 90 megawatts
38 shall not include electrical usage by customers that move to the
39 areas described in paragraph (1) after December 31, 2000.

1 (j) Subdivision (a) of this section shall not apply to the
2 construction, modification, lease, acquisition, installation, or
3 operation of facilities for the distribution or transmission of
4 electricity to customers electrically connected to a district as of
5 December 31, 2000, or to other customers who subsequently locate
6 at the same premises.

7 (k) In recognition of contractual arrangements and settlements
8 existing as of June 1, 2000, this section does not apply to the
9 acquisition or operation of the electric distribution facilities that
10 are the subject of the Settlement Agreement dated May 1, 2000,
11 between Pacific Gas and Electric Company and the San Joaquin
12 Irrigation District.

13 (l) For purposes of this section, retail customers do not include
14 an irrigation district's own electric load being served of retail by
15 an electrical corporation.